IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

THURSDAY, THE 12TH APRIL 2007 / 22ND CHAITHRA 1929

WP(C).No. 3939 of 2007(R)

PETITIONER:

A.V.SALILA, AGED 48 YEARS,
W/O. HARSHAKUMAR, VEDIC HOUSE,
PERUVARAM WEST, NORTH PARAVOOR,
ERNAKULAM DISTRICT.

BY ADV. SRI.T.A.UNNIKRISHNAN
SRI.P.P.BIJU

RESPONDENTS:

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1. THE GOVERNMENT SERVANTS,
CO-OPERATIVE SOCIETY LTD.NO.123,
NORTH PARAVOOR, ERNAKULAM DIST.,
REP. BY ITS SECRETARY.

2. THE SUB TREASURY OFFICER,
ERNAKULAM.

R1 BY ADV. SRI.SIRAJ KAROLY
R2 BY PUBLIC PROSECUTOR SRI.PUZHAKKARA MUHAMMED

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC.3939/07

PETIITONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE REQUEST DATED 5.8.2006 SUBMITTED BY PETITIONER TO THE 1ST RESPONDENT.

EXT.P2: TRUE COPY OF THE JUDGMENT DATED 24.11.2006 IN W.P(C) NO.30811/06 OF THIS HON'BLE COURT.

EXT.P3: TRUE COPY OF THE LETTER DATD 21.12.2006 TO THE PETITIONER.

EXT.P4: TRUE COPY OF THE REPLY DATED 30.12.2006.

RESPONDENT'S EXHIBITS:

EXT.R1(a): A TRUE COPY OF THE PETITIONER'S APPLICATION DATED 16.1.2002.

EXT.R1(b): A TRUE COPY OF THE EMPLOYMENT CERTIFICATE SUBMITTED BY THE PETITIONER BEFORE THE BANK.

EXT.R1(c): A TRUE COPY OF THE BOND EXECUTED JOINTLY BY THE PETITIONER AND THE GUARANTOR.

EXT.R1(d): A TRUE COPY OF THE CIRCULAR NO.59/2006 DATED 30.11.2006.

EXT.R1(e): A TRUE COPY OF THE STATEMENT OF ACCOUNTS.

/TRUE COPY/

J.M.JAMES, J.

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W.P.(C) No. 3939 of 2007 (R)

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Dated this the 12th day of April, 2007

J U D G M E N T

The writ petitioner is a defaulter to the first respondent. Through Exhibit P3 order dated 21/12/2006, the first respondent directed the writ petitioner to remit the entire amount of Rs.2,00,465/-. The prayer in the writ petition is to quash Exhibit P3, to direct the first respondent to calculate the amount after considering the amount so far paid back by the writ petitioner, and to allow the petitioner to avail the one time settlement facilities. It is also prayed that the salary which is being withheld, may be allowed to be drawn by the writ petitioner.

2. After hearing both sides, I have passed an interim order, dated 09/02/2007, considering the fact that the writ petitioner did not draw any salary from the month of May 2005 and the entire amount is lying with the Treasury. I have directed the second respondent, the Sub Treasury Officer, Ernakulam, to deduct an amount of Rs.5,000/- each per month, from the salary of the writ petitioner, with effect from the month of May, 2005 till January, 2007, and remit the said amount to the

account of the first respondent. I have also directed the second respondent that after the above deductions of Rs.5,000/- each, the balance salary amount be released to the writ petitioner. The writ petition having been posted today, I have further heard both sides.

3. The counsel for the writ petitioner submits that though the writ petitioner is a Sales Tax Officer, she is having a net salary of Rs.10,210/- only, because of various reasons, and she is not able to pay the amount that is being demanded by the first respondent. The counsel, therefore, prayed that the instalment may be allowed at the rate of Rs.3,000/- per month.

4. The counsel for the first respondent submitted that out of the total Rs.2,33,340/-, an amount of Rs.1,05,000/- had already been received towards the dues from the writ petitioner and the balance amount may be directed to be remitted at the rate of atleast Rs.6,000/- per month. I am unable to resist the arguments of Mr.T.A.Unnikrishnan, on behalf of the writ petitioner and the description of the state of health of the writ petitioner, including that she is a deserted woman. With leniency I am inclined to allow the prayer of instalment.

Considering the other circumstances elaborately submitted by the counsel, I fix the instalment amount as rupees five thousand per month.

5. In view of the above facts situation, I dispose of the writ petition, directing the second respondent to deduct an amount of rupees five thousand per month from the salary of the writ petitioner and remit the same to the account of the first respondent. This shall be done till the entire amount due to the first respondent is wiped off. If the writ petitioner is transferred to any other office of the commercial tax department, the second respondent shall endorse the salary deduction arrangement, as above, in the last payment certificate that would be issued to the writ petitioner.

Needless to say that on completion of the payment of the dues to the first respondent, the entire salary shall be paid to the writ petitioner, as per her entitlement.

(J.M.JAMES)
Judge

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